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July 24, 1996

BY HAND DELIVERY

William F. Caton
Acting Secretary
Federal Communications Commission
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

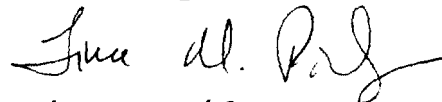
Re: Written Ex Parte Presentation -
WT Docket No. 96-18

Dear Mr. Caton:

Puerto Rico Telephone Company ("PRTC") hereby gives notice of a written ex parte presentation in the above-referenced proceeding. The presentation was made in the form of the attached letter.

PRTC delivered the attached letter to Mika Savir of the Wireless Telecommunications Bureau. Two copies of the letter are submitted herewith pursuant to Section 1.1206(a)(1) of the Commission's Rules, 47 C.F.R. § 1.1206(a)(1).

Sincerely,



Tina M. Pidgeon

Enclosures

cc: Mika Savir, Wireless Telecommunications Bureau

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

July 24, 1996

BY HAND DELIVERY

Ms. Mika Savir
Federal Communications Commission
Wireless Telecommunications Bureau
2025 M Street, Room 7130
Washington, D.C. 20554

Re: WT Docket No. 96-18, Revision of Part 22 and Part 90 of
the Commission's Rules to Facilitate Future Development
of Paging Systems

Dear Ms. Savir:

On behalf of the Puerto Rico Telephone Company ("PRTC") and pursuant to Section 1.1206(a)(1) of the Commission's rules, I am submitting additional information with respect to the availability of spectrum for the provision of Basic Exchange Telephone Radio Service ("BETRS"). PRTC proposes that the Commission implement the following course of action for preserving and promoting basic telephone service in rural areas: 1) preserve those frequencies currently designated for the provision of BETRS, provide that no licensee is required to participate in an auction to retain current authorizations for BETRS, and continue to allow any available frequencies to be licensed for BETRS use, and 2) designate an additional frequency block solely for the operation of BETRS.

I. PRTC'S POSITION IN THE PROCEEDING

PRTC submitted comments and reply comments in the above-referenced proceeding recommending that the Commission consider designating a spectrum block for BETRS service.¹ The continued availability of this service is in the public interest so that local exchange carriers will have a cost-effective means of

-
1. Comments and Reply Comments attached hereto.

Ms. Mika Savir
July 24, 1996
Page 2

providing basic telephone service by wireless local loop to rural areas.

PRTC has a significant interest in the impact of this proceeding on the future availability and use of BETRS frequencies, because BETRS is an increasingly important part of PRTC's efforts to provide island-wide universal service. The telephone service penetration rate in Puerto Rico remains below 75 percent, while recent figures show that the national penetration rate is close to 94 percent.² In Puerto Rico, many unserved citizens live in rural areas where mountainous terrain and heavy vegetation makes it cost-prohibitive to provide traditional wireline service. Therefore, PRTC has been required to consider and employ other options, like BETRS, for providing basic telephone service to a significant number of the Puerto Rico population.

BETRS authorizations should not be subject to auction in conjunction with those services with which it shares frequencies, i.e., paging. First, the Commission has correctly determined in prior orders that the auction of spectrum for BETRS is contrary to the public interest.³ Second, if subject to competitive bidding, BETRS will likely lose its character as a cost-effective means for providing rural service.

2. Federal-State Joint Board Staff, Monitoring Report, CC Docket No. 87-339, Table 1.2 at 17 (May 1996) ("1996 Monitoring Report"). Only three states have penetration rates below 90 percent: Arkansas, 89.4 percent; Mississippi, 86.5 percent; and New Mexico, 86.4 percent.

3. See Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, Second Report and Order, 9 FCC Rcd 2348, 2356 ¶ 46 (1994).

Ms. Mika Savir
July 24, 1996
Page 3

II. PRTC'S PROPOSAL

A. PRESERVE EXISTING FREQUENCIES

PRTC holds BETRS authorizations in the 454 MHz frequency range. The systems employed on these frequencies should not be disturbed by the proposal to auction licenses for operation on these frequencies. As PRTC explained in its Comments,

The price for spectrum is set based upon its use in heavily populated urban areas. If local exchange carriers serving rural areas must pay this price for spectrum to service very small rural constituencies, wireless local loop may be financially infeasible.⁴

Accordingly, a bidder for a license to provide BETRS service likely will be outbid by a bidder for a more profitable paging license, thereby impeding the ability to provide BETRS. Although BETRS is a cost-effective service for rural areas, it will not be available if the spectrum which it now uses will be sold in an auction for use in providing urban services.

This especially holds true in an area where the spectrum is substantially saturated, as in Puerto Rico. In this case, the winner of the geographic license will not be able to make effective use of the license in densely populated areas that are served by existing paging licensees. Yet, if these frequencies are sold at auction, a BETRS service provider wishing to expand service in rural areas or to reconfigure its system to improve service must either acquire the geographic license itself or negotiate any future expansion or change in service areas with the geographic licensee. Such requirements would impose additional costs upon the BETRS service provider and could block its access to needed spectrum.

This outcome is contrary to the Commission's mission "to make available . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges."⁵ Communities may be denied

4. PRTC Comments, WT Docket 96-18 at 7.

5. 47 U.S.C. § 151.

Ms. Mika Savir
July 24, 1996
Page 4

access to cost-effective basic telephone service if the spectrum designated for BETRS is offered at a cost based on the demand for paging services. The practical result of such a strategy will be to deny basic telephone service to rural, unserved areas.

In prescribing new licensing rules which could affect the availability of BETRS service, the Commission must take into account the needs of rural communities like those in Puerto Rico. Section 307(b) of the Communications Act provides that:

In considering applications for licenses, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distributions of licenses, frequencies, hours of operation, and power among the several states and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.⁶

Forcing rural BETRS applicants to compete against urban bidders for spectrum would effectively deny the availability of radio technology to deliver rural telephone services in favor of additional paging services to urban areas that are already heavily served. Such actions would appear to violate Sections 151 and 307(b).⁷ As the Commission has stated,

[i]t would not serve the public interest for the Commission to establish services such as BETRS as a potentially less costly alternative to landline service and then require a

6. 47 U.S.C. § 307(b).

7. Cf. Turner Broadcasting System, Inc. v. FCC, 114 S. Ct. 2445, 2469 (1994) (explaining that section 307(b) provides for the licensing of communications facilities across the country); Maxcell Telecom Plus, Inc. v. FCC, 815 F.2d 1551, 1561 n.10 (D.C. Cir. 1987) (comparing Commission's authority to target its cellular application process for the benefit of "areas that it deems have a higher demand for service" with section 307(b) requirement to "provide a fair, efficient, and equitable distribution of radio service").

Ms. Mika Savir
July 24, 1996
Page 5

BETRS applicant to bid against a radio common carrier applicant for those frequencies.⁸

Moreover, it would be surprising to find competitive local exchange carriers vying to offer service to these rural areas that have low-density population centers but require a significant investment for the provision of service.⁹ Therefore, the Commission should ensure that licensees currently providing BETRS on these frequencies will not be affected by new rules providing for auction of paging licenses according to geographic area. The use of these frequencies for the provision of BETRS should be grandfathered to avoid disruption of existing wireless local loop services.¹⁰ Finally, new applications to provide BETRS on these frequencies should be given preferential treatment over a mutually exclusive application to provide paging, at least until new spectrum is allocated exclusively to BETRS.

8. Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, 9 FCC Rcd at 2356 ¶ 46. See USTA Comments, WT Docket No. 96-18 at 2-3 (recommending that "the Commission reaffirm the decision that, because of the public interest in extending basic telephone service to sparsely populated areas, competitive bidding should not be used to select between BETRS and other applicants").

9. See, e.g., Small Business in Telecommunications Comments, WT Docket 96-18 at 7 ("The Commission cannot expect that a rural telephone service provider would be willing to bid at auction to gain spectrum over a wide-area, including urban areas, for future BETRS needs."); Pacific Bell Comments at 3 ("Contrary to some opinions, we do not believe that newer mobile technologies, such as PCS, will be widely available in the near future to serve sparsely populated or remote areas.").

10. In this regard, licensees should also be permitted to offer BETRS pursuant to the Commission's recent Order approving deployment of wireless local loops in conjunction with CMRS authorizations. Order, WT Docket 96-6, adopted June 27, 1996 (not released).

Ms. Mika Savir
July 24, 1996
Page 6

B. DESIGNATE A FREQUENCY BLOCK SOLELY FOR BETRS

A frequency block must be designated solely for BETRS.¹¹ It remains the case that no block of spectrum has been reserved solely for BETRS use. Part 22 of the Commission's rules allocates 94 channel pairs for BETRS.¹² BETRS occupies these spectrum blocks on a co-primary basis,¹³ and the Commission has already proposed elimination of 50 of these channel pairs in its 800 SMR proceeding.¹⁴

PRTC recommends that the Commission consider designating a BETRS spectrum block in conjunction with rulemakings scheduled with respect to the remaining 185 MHz of government spectrum to be reallocated pursuant to 47 U.S.C. § 923.¹⁵ The Commission has

11. Interested parties have identified previously the need for additional BETRS frequency assignments. See Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network, CC Docket No. 95-115, USTA Comments at 15 ("the bandwidth assigned to BETRS was inadequate to provide the service expected and . . . exchange carriers were only provided co-primary status causing interference and unreliability"); National Telephone Cooperative Association Comments at 7 (attesting to the "urgent need" for additional spectrum for BETRS); U S WEST Communications, Inc. Comments at 12 ("BETRS frequency assignment is often less than ideal").

12. 47 C.F.R. §§ 22.725 and 22.757.

13. See Basic Exchange Telecommunications Radio Service, Report and Order, 3 FCC Rcd 214, 216 (1988), on recon., 4 FCC Rcd 5017 (1989).

14. Amendments of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, 11 FCC Rcd 1463, ¶ 288 (1995).

15. The federal government is reallocating spectrum located intermittently from 1390 MHz to 1755 MHz, 2300 MHz to 2450 MHz, 3650 MHz to 3700 MHz (spectrum block), and 4635 MHz to 4685 MHz.

(continued...)

Ms. Mika Savir
July 24, 1996
Page 7

announced its intention to initiate separate rulemakings regarding this spectrum starting in 1996, 1997, and 2006.¹⁶ By designating some portion of the available spectrum for BETRS, the Commission will fulfill its stated objective "to ensure that spectrum is put to its best and most valued use and that the greatest benefit to the public is attained."¹⁷

Of the spectrum that is designated to become available over the course of the next ten years, lower frequencies are needed for the provision of this service. Currently, PRTC must rely on wireless local loop alternatives to traditional wireline service because of the high cost of providing service through traditional means. Radio-based systems provide a cost effective alternative. However, lower frequencies are needed because the costs of wireless facilities (i.e., equipment and number of cell sites) increase at higher frequencies and, the cost of providing service again approaches cost-prohibitive levels.¹⁸

This two part proposal will preserve the status of existing BETRS licensees and provide for the future opportunity for telecommunications carriers to expand service in rural areas. Although the Commission has found that it is in the public interest to auction licenses for some services, this practice

15. (...continued)

Plan for Reallocated Spectrum, FCC 96-125 (rel. March 22, 1996) at ¶ 3.

16. Id. at ¶ 4.

17. See id. at ¶ 66.

18. Although spectrum should be designated from the reallocated frequencies, a BETRS allocation at lower frequencies, e.g., frequencies located within the 200-400 MHz range, would be especially useful. These frequencies are occupied currently by the federal government and are not set for reallocation. However, in the event that any of this spectrum is reallocated in the future for private use, the Commission should bear in mind that they offer ideal conditions for providing high-quality, basic exchange service to rural areas. p

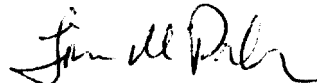
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Ms. Mika Savir
July 24, 1996
Page 8

does not serve the interests of rural areas where BETRS provides the best option for quality basic telephone service. By preserving the status of existing BETRS authorizations and setting aside a frequency block solely for BETRS service, the Commission will avoid the conflict it currently faces between the lucrative disposition of licenses and the mandate to advance universal service and to effectuate a "fair, efficient, and equitable distribution of radio service."

PRTC looks forward to discussing further and answering any related questions about its proposal.

Sincerely,



Tina M. Pidgeon

Attachments

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

Revision of Part 22 and Part 90)
of the Commission's Rules to Facilitate)
Future Development of Paging Systems)

WT Docket No. 96-18

Implementation of Section 309(j))
of the Communications Act --)
Competitive Bidding)

PP Docket No. 93-253

To: The Commission

COMMENTS OF PUERTO RICO TELEPHONE COMPANY

RECEIVED
MAR 18 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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March 18, 1996

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of Part 22 and Part 90)	WT Docket No. 96-18
of the Commission's Rules to Facilitate)	
Future Development of Paging Systems)	
)	
)	
Implementation of Section 309(j))	PP Docket No. 93-253
of the Communications Act --)	
Competitive Bidding)	

COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules,¹ hereby comments on the Commission's Notice of Proposed Rule Making ("NPRM") in the captioned proceeding.² In the NPRM the Commission seeks comments on its proposal to require competitive bidding among mutually exclusive paging and BETRS applicants.³ The Commission has also requested comment on whether it should permit geographic partitioning of licensing areas to make spectrum available to BETRS operators in sparsely populated regions.

1. 47 C.F.R. § 1.415.

2. FCC 96-52, released February 9, 1996.

3. Channel pairs 152/158 MHz and 454/459 MHz are used by both BETRS and paging services. Id. at ¶ 29.

I. INTRODUCTION

PRTC is a wholly-owned subsidiary of the Puerto Rico Telephone Authority ("PRTA"), a government instrumentality of the Commonwealth of Puerto Rico.⁴ PRTC provides wireline telephone service throughout the urban and rural areas of the island of Puerto Rico.

Over the past several years, PRTC has made tremendous strides toward increasing its overall service penetration rate. PRTC has concentrated recent efforts on reaching unserved rural areas; however, the mountainous and rugged terrain in certain areas of Puerto Rico make the installation of wireline infrastructure prohibitively expensive. Accordingly, PRTC has been required to consider methods of providing service other than traditional wireline service. Basic Exchange Telephone Radio Service ("BETRS") has proven to be a cost-effective alternative. Competitive bidding for BETRS spectrum may increase prohibitively the cost of providing this service. Therefore, PRTC urges the Commission to reaffirm its current policy that competitive bidding is not an appropriate means by which to allocate BETRS spectrum.

4. Law Number 25 of the Commonwealth of Puerto Rico, approved May 6, 1974, established PRTA as a government corporation and provided for the purchase of PRTC by PRTA. P.R. LAWS ANN. tit. 27, § 404.

II. BETRIS IS ESSENTIAL TO PRTC'S EFFORTS TO INCREASE TELEPHONE SERVICE PENETRATION.

The Commonwealth of Puerto Rico acquired PRTC in 1974 to improve the unacceptable level of telephone service development on the island. Telephone service penetration in Puerto Rico was barely at 25 percent in 1974. In the same year, penetration in the mainland United States was at 90 percent.

Since 1974, PRTC has made great strides in extending telephone service throughout Puerto Rico, and modern facilities are now widely available. Last year alone, PRTC increased penetration by 4 percent, and a similar increase should be achieved this year. Nevertheless, telephone penetration in Puerto Rico remains low by United States standards. United States telephone penetration is now 93.8 percent nationally,⁵ while overall penetration in Puerto Rico is 71 percent and below 50 percent in some areas of the island.

As a government entity, PRTC has a social responsibility to provide local exchange service to all Puerto Rico citizens. However, the mountainous terrain spanning parts of the island makes widespread installation of wireline facilities cost-prohibitive.⁶ These conditions are precisely the type

5. Federal-State Joint Board Staff, Monitoring Report, CC Docket No. 87-339, Table 1.2 at 27 (May 1995) ("1995 Monitoring Report"). Only three states have penetration rates below 90 percent: Mississippi, 88.6 percent; New Mexico, 88.3 percent; and South Carolina, 89.4 percent. Id.

6. The cost per local loop to install wireline service for the areas affected by these applications ranges from \$5,000 to \$10,000, and in some cases may exceed \$15,000. In contrast, the
(continued...)

anticipated when the Commission approved BETRS to provide service to areas where "the cost of bringing wire or cable to their remote locations is prohibitive." In the Matter of Basic Exchange Telecommunications Radio Service, Report and Order, 3 FCC Rcd 214 (1988), on recon., 4 FCC Rcd 5017 (1989).

PRTC's current plans include further deployment of BETRS technology to reach less accessible regions of the island.⁷ BETRS technology permits PRTC to offer service to individuals who have never experienced the health, social, and economic benefits of basic telephone service. For example, PRTC forecasts that within two years due to BETRS technology, it will be able to offer service for the first time to an estimated 6,000 citizens. The key to continued utilization of BETRS to improve rural service penetration is the cost-effective nature of the service.

III. AUCTIONING OF AUTHORIZATIONS FOR BETRS SPECTRUM IS INCONSISTENT WITH THE GOAL OF UNIVERSAL SERVICE.

When the Commission approved BETRS in 1988, the service was heralded as a "major step by the Commission in the pursuit of [its] goal of extending basic telephone service to as many Americans as possible." BETRS Report and Order, 3 FCC Rcd at

6. (...continued)

national average cost per local loop is \$243. Id., Table 3.7 at 86. Radio service, which can be provided to the same areas for less than \$2,600 per subscriber, is the clear option for PRTC as part of its ongoing effort to increase telephone service availability.

7. PRTC holds BETRS authorizations in the 454 MHz frequency range and is authorized by waiver to provide BETRS in the 453 MHz range, generally assigned for local government (Part 90) use.

219. BETRS provides a cost-effective option to local exchange carriers for offering telephone service to presently unserved rural areas. Policies that facilitate and promote proliferation of the service will aid the Commission in carrying out its most important statutory mission:

to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges . . .

47 U.S.C. 151.

A. The Commission Has Determined that Auction of BETRS Spectrum is Contrary to the Purpose of BETRS Service.

The Commission has previously acknowledged that subjecting a rural radio applicant to competitive bidding requirements would be inimical to the mission of providing universal service. This mission is incorporated by reference into the competitive bidding provisions. 47 U.S.C. § 309(j)(3). In its Competitive Bidding proceeding, the Commission concluded that

[i]t would not serve the public interest for the Commission to establish services such as the BETRS as a potentially less costly alternative to landline service and then require a BETRS applicant to bid against a radio common carrier applicant for those frequencies.

In the Matter of Implementation of Section 309(j) of the

Communications Act -- Competitive Bidding, Second Report and

Order, 9 FCC Rcd 2348, 2356 ¶ 46 (1994). The policy

underpinnings for the Commission's finding in the Competitive Bidding proceeding are no less applicable as the Commission undertakes to revise paging rules in the instant proceeding.

It is well established that "an agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance." Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 42 (1983)

(emphasis added). Thus, having adopted the policy that BETRS spectrum should not be subject to auction, the Commission's faces a heightened burden to justify a rescission of this policy.⁸ This "reasoned analysis" for rescinding a rule must be based on the record, after notice and opportunity to comment. Id. at 43-44. Before the Commission approves competitive bidding in the case of mutually exclusive BETRS and paging applications, it must first substantiate why the existing policy — itself the product of the administrative rulemaking process — is no longer suitable. Indeed, the public policy argument in favor of changing the current method of licensing paging service on a site-by-site basis is by no means evident.

8. In State Farm the Supreme Court made clear that an agency rescinding a rule must confront the premise that the rule was properly adopted in the first instance:

Revocation [of a rule] constitutes a reversal of the agency's former views as to the proper course. A settled course of behavior embodies the agency's informed judgment that, by pursuing that course, it will carry out the policies committed to it by Congress. There is, then, at least a presumption that those policies will be carried out best if the settled rule is adhered to.

State Farm, 463 U.S. at 41-42 (quoting Atchison, Topeka & Santa Fe Ry. Co. v. Wichita Bd. of Trade, 412 U.S. 800, 807-08 (1973)) (quotations omitted).

B. Competitive Bidding May Frustrate the Capability to Provide Cost-Effective Rural Service.

Competitive bidding for spectrum to provide BETRS in rural areas is not sound public policy. The price for spectrum is set based upon its use in heavily populated urban areas. If local exchange carriers serving rural areas must pay this price for spectrum to serve very small rural constituencies, wireless local loop may be financially infeasible. Thus, the auction process will have eliminated a viable technological alternative for serving those who are unserved today. This outcome cannot possibly be consistent with the Commission's universal service mission.

Moreover, build-out requirements that are attached to a license acquired by auction will skew the service offering to more populated areas. In its NPRM, the Commission has tentatively concluded that paging licensees will be required to provide coverage to one-third of the population within a geographic license area within three years of the initial license grant, and to two-thirds of the population at the end of five years, or provide "substantial service" within that time. NPRM at ¶ 41. A licensee who must offer the service to a certain percentage of the population within a limited time period can do so most efficiently by installing infrastructure in well-populated areas. Build-out requirements can have the practical effect of hindering service availability in rural markets, thereby inhibiting service in rural areas. Therefore, to encourage the implementation of BETRS to serve rural areas, any

BETRS spectrum that may ultimately be acquired by auction should not be subject to the build-out requirements.

C. The Proposal for Geographic Partitioning Must be Clarified and Considered Further.

Geographic partitioning may alleviate the cost-prohibitive aspect of bidding for BETRS spectrum. By this device, a BETRS provider potentially could limit its auction costs proportional to the economic value of the service that will be provided to a rural area. In addition, a partitioned licensee may be relieved of carrying the entire burden of meeting a wide-area geographic build-out requirement. However, in considering this proposal further, the Commission should clarify whether geographic partitioning would be available only to rural telephone companies or to any provider of BETRS.

IV. THE COMMISSION SHOULD CONSIDER CARVING OUT A BETRS SPECTRUM BLOCK.

The universal service implications raised in this and another ongoing proceeding⁹ demonstrate that the Commission should also consider carving out spectrum especially reserved for BETRS. A dedicated BETRS frequency block will encourage carriers to utilize the service as a means for reaching unserved areas.

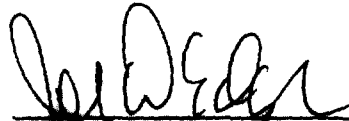
9. The Commission has proposed recently to eliminate half of the spectrum allocated on a co-primary basis for BETRS. See In the Matter of Amendments of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, ¶¶ 287-288 (released December 15, 1995). PRTC raised similar concerns with respect to BETRS spectrum allocation in its Comments (submitted February 15, 1996) and Reply Comments (submitted March 1, 1996).

Carriers will in turn create a demand upon equipment providers to improve and develop BETRS equipment.

V. CONCLUSION

BETRS technology is available so that local exchange companies can provide basic telephone service to rural customers in a cost-effective manner. It is counter-intuitive, therefore, to require BETRS applicants to engage in competitive bidding for this service. Indeed, competitive bidding may have the effect of pricing the service out of its cost-effective range, thereby defeating the very purpose for the development of BETRS technology. PRTC respectfully urges the Commission to resolve the issue of spectrum availability for BETRS by carving out spectrum for its sole deployment.

Respectfully submitted,



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(202) 842-8800

Attorneys for
PUERTO RICO TELEPHONE COMPANY

March 18, 1996

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Comments of Puerto Rico Telephone Company has been served by hand delivery on the 18th day of March, 1996 upon:

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W./Room 222
Washington, D.C. 20554


Tina M. Pidgeon

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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APR 2 '96

In the Matter of)

Revision of Part 22 and Part 90)
of the Commission's Rules to Facilitate)
Future Development of Paging Systems)

WT Docket No. 96-18

Implementation of Section 309(j))
of the Communications Act --)
Competitive Bidding)

PP Docket No. 93-253

To: The Commission

REPLY COMMENTS OF PUERTO RICO TELEPHONE COMPANY

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Attorneys for
PUERTO RICO TELEPHONE COMPANY

April 2, 1996

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
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Revision of Part 22 and Part 90)	WT Docket No. 96-18
of the Commission's Rules to Facilitate)	
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To: The Commission

REPLY COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules,¹ hereby submits its reply comments in the Commission's Notice of Proposed Rule Making ("NPRM") in the captioned proceeding.² In its Comments, PRTC, like other participants, has expressed its opposition to the implementation of competitive bidding rules for mutually exclusive Basic Exchange Telephone Radio Service ("BETRS") and paging applications.

1. 47 C.F.R. § 1.415.

2. FCC 96-52, released February 9, 1996.

I. INTRODUCTION

PRTC, a government instrumentality of the Commonwealth of Puerto Rico, provides wireline telephone service throughout the urban and rural areas of the island of Puerto Rico. PRTC has dramatically increased telephone service penetration over the past twenty years and continues to pursue additional ways in which to provide service, especially to its rural customers.

The continued affordable availability of frequencies on which to operate BETRS is of serious concern to PRTC as it continues to implement this technology to provide cost-effective service. This effort is central to PRTC's social responsibility as a governmental entity created to improve the island's telephone infrastructure. Therefore, PRTC opposes any proposal to auction spectrum for BETRS, the result of which will be the unavailability of basic telephone service to rural areas.

I. COMPETITIVE BIDDING FOR BETRS AUTHORIZATIONS IS CONTRARY TO THE COMMISSION'S UNIVERSAL SERVICE MISSION.

The Commission has a statutory duty

to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges . . .

47 U.S.C. 151. The Commission proposal to impose competitive bidding rules for mutually exclusive BETRS and paging application is inconsistent with this mission. Competitive bidding for authorizations will increase the cost of providing basic telephone service to sparsely populated rural areas. Such a

result is antithetical to the Commission's statutory mission to facilitate universal telephone service. This proposal will make even more difficult efforts by local exchange carriers, like PRTC, to provide universal service. See Comments of Small Business in Telecommunications at 7 (stating that "BETRS systems are a vital portion of the Commission's efforts to provide universal telephone service to even the most remote portions of the Nation") ("SBT Comments").

In the NPRM, the Commission sought comments on its proposal to revise the rules governing paging by issuing licenses by geographic area rather than on a site-by-site and by auctioning mutually exclusive licenses. The Commission also requested comments regarding its proposal to hold an auction in the event of mutually exclusive applications for BETRS and paging frequencies. The Commission stated that these proposed changes provide ways to promote growth and preserve competition in the paging industry, to establish a comprehensive regulatory scheme to simplify and streamline licensing procedures, and to meet the statutory objective of regulatory symmetry for all Commercial Mobile Radio Services ("CMRS"). NPRM at ¶¶ 1-2.

Implementing competitive bidding rules for mutually exclusive BETRS and paging applications satisfies none of these objectives that apply, if at all, solely to paging services. The Commission's proposal to govern the assignment of BETRS frequencies using the same method as for competitive CMRS services like paging, cellular and PCS is in conflict with its